

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
FIRST COMMUNICATIONS, LLC)
) No. 03-0709
Application for a certificate)
of local service authority to)
operate as a facilities- and)
nonfacilities-based carrier of)
telecommunications services in)
the Ameritech services areas in)
the state of Illinois.)
Chicago, Illinois
January 7, 2004

Met pursuant to notice at 11:00 a.m.

BEFORE:

MR. JOHN RILEY, Administrative Law Judge.

APPEARANCES:

EARLY, LENNON, CROCKER & BARTOSIEWICZ, by
MR. PATRICK D. CROCKER (via telephone)
900 Comerica Building
Kalamazoo, Michigan 49007
Appearing for the Applicant;

MR. ROBERT KOCH (via telephone)
527 East Capitol Avenue
Springfield, Illinois 62701
Appearing for Staff.

SULLIVAN REPORTING COMPANY, by
Julianne Murphy, RPR, CSR

1		<u>I N D E X</u>			
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	Re- <u>direct</u>	Re- <u>cross</u>
3	Joseph Morris	5	11		By <u>Examiner</u> 15
4					
5					
6					
7		<u>E X H I B I T S</u>			
8	<u>Number</u>	<u>For Identification</u>			<u>In Evidence</u>
9	Appl. 1	18			18
10	Appl. 2	19			19
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					

1 JUDGE RILEY: Pursuant to the direction of the
2 Illinois Commerce Commission, I now call docket
3 03-0709. This is an application by First
4 Communications, LLC for a certificate of local
5 service authority to operate as a facilities- and
6 nonfacilities-based carrier of telecommunications
7 services in the Ameritech service areas in the
8 state of Illinois.

9 And will applicant for the -- excuse me.
10 Would counsel for the applicant please enter an
11 appearance for the record, please.

12 MR. CROCKER: Yes, your Honor. Patrick Crocker,
13 C-r-o-c-k-e-r, with Early, E-a-r-l-y, Lennon,
14 L-e-n-n-o-n, Crocker, C-r-o-c-k-e-r, and
15 Bartosiewicz, B-a-r-t-o-s-i-e-w-i-c-z, 900 Comerica
16 Building, and that's in Kalamazoo, Michigan,
17 K-a-l-a-m-a-z-o-o, 49007, your Honor.

18 JUDGE RILEY: Thank you. And Mr. Koch --

19 MR. CROCKER: The witness I have today is
20 Joseph R. Morris, as previously indicated.

21 JUDGE RILEY: Thank you. Mr. Koch?

22 MR. KOCH: Yes. Appearing for Staff of the

1 Illinois Commerce Commission, Robert Koch, K-o-c-h,
2 527 East Capitol, Springfield, Illinois 62701.

3 JUDGE RILEY: Thank you. And is there any --
4 what is the matter that you wanted to -- was
5 there -- I got the impression that there was a
6 matter you wanted to discuss before we began with
7 the evidence.

8 MR. KOCH: Actually, your Honor, I was just
9 using the opportunity of the moments before the
10 conference just to indicate that I had a handful of
11 questions, nothing that needs to be discussed off
12 the record.

13 JUDGE RILEY: Okay. Then in other words, just
14 the routine and usual course of business then?

15 MR. KOCH: Absolutely.

16 JUDGE RILEY: Okay. Fine. Then Mr. Crocker, I
17 will turn to you and ask you whether or not you
18 have a witness to appear today.

19 MR. CROCKER: Yes, your Honor. The witness is
20 Joseph R. Morris.

21 JUDGE RILEY: Good morning, Mr. Morris.

22 MR. JOSEPH MORRIS: Good morning, Judge.

1 (Witness sworn.)

2 JUDGE RILEY: Please proceed, Mr. Crocker.

3 MR. CROCKER: Okay. Thank you, your Honor.

4 DIRECT EXAMINATION

5 BY

6 MR. CROCKER:

7 Q. Mr. Morris, could you please state your
8 name and business address for the record.

9 A. Joseph R. Morris, business address is 3340
10 West Market Street, Akron, Ohio 44333.

11 Q. Okay. And what is your occupation?

12 A. I am VP of corporate operations and general
13 counsel.

14 Q. Great. And could you please briefly state
15 the purpose of your testimony today.

16 A. The purpose of the testimony is to describe
17 the nature of our company's business and to
18 demonstrate the company's financial, managerial,
19 and technical ability to provide telecommunications
20 services herein.

21 Q. And could you please briefly describe the
22 nature of the telecommunication services that your

1 company intends to offer customers in Illinois.

2 **A.** This application is to provide local
3 telecommunications services to both consumers and
4 commercial customers in Illinois.

5 **Q.** Great. And in what state is the company
6 organized?

7 **A.** The company is organized in the state of
8 Ohio.

9 **Q.** And where is the company authorized to
10 provide telecommunications similar to the service
11 offering proposed with this application?

12 **A.** We are certified to offer local service in
13 Ohio, Michigan, Indiana, Pennsylvania, and New
14 Jersey.

15 **Q.** Great. Could you please briefly describe
16 your background in business and telecommunications.

17 **A.** I'm an attorney by trade. I worked for a
18 larger law firm in Ohio for a number of years doing
19 various business matters and then had been with
20 this particular company for about five years in
21 operational and regulatory roles.

22 **Q.** Okay. Great. Could you please identify

1 the current management team and some of their
2 responsibilities.

3 **A.** Our president and chief operating officer
4 is Brian Murphy. He was with First Energy Company
5 prior to joining us back in 1998 as an MBA from
6 Ohio Wesleyan University.

7 Jim Amber is VP of service delivery. He
8 has about 27 years of telecommunications
9 experience, mainly in the technical area.

10 Our treasurer was with Ameritech for 13
11 years before joining us about five years ago, and
12 then Charles Leedy has been in telecommunications
13 for over 15 years, has a doctorate degree. And
14 Dade Johnson, our VP of sales, has also been in
15 telecommunications for 15 to 18 years.

16 **Q.** Great. Does the company intend to offer
17 operator services within Illinois?

18 **A.** No, we do not.

19 **Q.** Okay. What rates will the company charge
20 for services provided to customers within Illinois?

21 **A.** It will provide rates and services pursuant
22 to our terms, conditions, and rates set forth in

1 our approved tariffs.

2 Q. Has the company's financial circumstances
3 adversely changed subsequent to the filing of this
4 application?

5 A. No.

6 Q. And how will the company bill for services?

7 A. We'll use our own internal billing
8 platform.

9 Q. Will the company's name appear on the bill?

10 A. Yes, it will.

11 Q. Will a toll-free number to contact the
12 company appear on the bill?

13 A. Yes.

14 Q. And will that bill be rendered monthly?

15 A. It will.

16 Q. Okay. Who will provide the customer repair
17 service to the company?

18 A. We'll have -- we have an internal customer
19 service and repair group at the company. The
20 actual on-site repairs will be performed by SBC.

21 Q. Great. How many people does the company
22 employ approximately?

1 **A.** Approximately 100 people.

2 **Q.** Okay. Will the company's billing system be
3 able to distinguish between resale and
4 facilities-based service by the collection of the
5 ITEC land charge?

6 **A.** Yes, it will.

7 **Q.** Has the company signed and returned the
8 universal telephone assistance corporation and the
9 Illinois telecommunications access corporation
10 application to the Commission Staff?

11 **A.** Yes, it has.

12 **Q.** Please just describe the company's internal
13 process for complaint resolution.

14 **A.** If the complaint comes into our customer
15 service, we have three level of escalation going
16 from supervisor to manager, myself as vice
17 president, and then up to the president.

18 If it's an informal complaint coming to
19 the Commission or a consumer counsel at SBC, the
20 complaint goes directly to our manager of
21 regulatory affairs, Mary Segelski (phonetic), and
22 then it's escalated to myself.

1 **Q.** Okay. How does the company plan to solicit
2 customers once it begins to provide local service?

3 **A.** Through direct sales, direct marketing, and
4 agents.

5 **Q.** Will the company abide by federal and state
6 slamming laws?

7 **A.** Yes, it will.

8 **Q.** How about federal and state cramming laws?

9 **A.** Yes, it will.

10 **Q.** Has the company prepared any guidelines to
11 prevent the unauthorized slamming of local exchange
12 customers?

13 **A.** Yes, we do have those.

14 **Q.** Okay. Does the company have any formal
15 complaints or judgments levied against it for
16 slamming or cramming?

17 **A.** No. It has never had any formal
18 complaints.

19 **Q.** Okay. Who will be responsible for building
20 and maintaining the 911 database for your local
21 exchange customers?

22 **A.** SBC will be responsible for that.

1 **Q.** And will you update them on a regular
2 basis?

3 **A.** We will work with SBC in updating that on a
4 daily basis, yes.

5 **Q.** Okay. Will your company's billing system
6 have the ability to distinguish between
7 facilities-based and resale for the collection of
8 the 911 surcharge?

9 **A.** Yes, it will.

10 MR. CROCKER: Your Honor, I have no further
11 questions at this time.

12 JUDGE RILEY: Thank you, Mr. Crocker.

13 Mr. Koch, I'll let you go first.

14 MR. KOCH: Thank you, your Honor.

15 CROSS EXAMINATION

16 BY

17 MR. KOCH:

18 **Q.** Mr. Morris?

19 **A.** Yes.

20 **Q.** Question 13 in the application -- and I'm
21 going to turn to it as I talk to you as well --

22 **A.** Okay.

1 **Q.** -- refers to the waiver for code part 250,
2 and that is a requirement that you keep your books
3 and records within the state of Illinois.

4 **A.** Okay.

5 **Q.** And you've indicated a request for the
6 waiver.

7 **A.** Right.

8 **Q.** And I have a follow-up question for you.
9 If necessary, would your company be willing to
10 cover the expenses of Commission Staff if they
11 needed to come on your site to examine the books
12 and records?

13 **A.** Yes, we would.

14 **Q.** Okay. Very good. And question 22 of the
15 application for the applicant's procedures to
16 prevent slamming and cramming customers, you
17 previously indicated that you would abide by state
18 requirements as well as federal, correct?

19 **A.** Yes.

20 **Q.** Okay. Very well. Okay. Turning to
21 Appendix B of the application, which I'm having
22 trouble locating at the moment if you'll bear with

1 me.

2 A. Okay.

3 Q. Who at your company will be responsible for
4 making sure that its customer information is up to
5 date and provided to the 911 database?

6 A. Our -- the ultimate responsibility will be
7 a Cindy Butash, B-u-t-a-s-h, and she is our manager
8 of provisioning.

9 Q. And was her contact information provided
10 with the application already?

11 A. I don't know if it was. One second, let
12 me -- if not, why don't I give to you now.

13 Q. Sure.

14 A. Cindy Butash, B-u-t-a-s-h. Address is 3340
15 West Market Street, Akron, Ohio, 44333. Her direct
16 phone number is (330) 835-2335.

17 Q. Okay. Very well. And in the same
18 appendix, question 5 -- and perhaps this question
19 is unnecessary but I'll go ahead and ask it. When
20 you refer to Ameritech you mean SBC, correct?

21 A. Yes, that's correct.

22 Q. Very good. And in other places in the

1 application I see Ameritech's name listed, and that
2 would also be a reference to SBC?

3 **A.** That's correct.

4 **Q.** Okay. And you've already indicated that
5 your company will provide customer information on a
6 daily basis if needed, correct?

7 **A.** That's correct.

8 **Q.** Okay. And I also noticed that Appendix D
9 was not provided or submitted with the application.
10 And Appendix D has to do with prepaid local
11 exchange services.

12 Does your company intend to provide
13 prepaid local exchange services?

14 **A.** Not at this point, no.

15 **MR. KOCH:** Okay. Very well. No further
16 questions.

17 **JUDGE RILEY:** Thank you, Mr. Koch.

18 Mr. Morris, I have a few of my own, if you
19 can bear with me.

20 **MR. JOSEPH MORRIS:** Okay.

21

22

1 EXAMINATION

2 BY

3 JUDGE RILEY:

4 Q. Looking at the application under question
5 2, the authority requested, you have checked 13403
6 for facilities-based long distance service and
7 13404 which is resold local and/or interexchange.
8 Do you plan to resell both local and interexchange?

9 A. Yes.

10 Q. Okay. And the authority requested also
11 includes under 13405 facilities-based local
12 service; is that correct?

13 A. That's correct.

14 Q. Okay. In the event that technical support
15 has to be provided for the applicant's operation,
16 who will do that? Would it be the applicant itself
17 or would it be an underlying carrier?

18 A. It would more than likely be the underlying
19 carrier.

20 Q. Okay.

21 A. Initial front line of customer care will be
22 the applicant.

1 **Q.** All right. And does the company plan on
2 marketing itself in Illinois under an assumed or
3 doing-business-as name?

4 **A.** No. We'll market under First
5 Communications.

6 **Q.** Okay. And will the company be offering
7 operator-assisted services or will that be handled
8 by the underlying carrier?

9 **A.** That will handled by the underlying
10 carrier.

11 JUDGE RILEY: That takes care of all the
12 questions that I have but one, and that's going to
13 be for Mr. Koch in just a minute.

14 I want to deal with the matter of
15 exhibits, and this is more properly addressed to
16 Mr. Crocker. We have the management profiles that
17 were submitted to our e-docket system along with
18 the financial information. Excuse me, I have one
19 note to ask Mr. Morris.

20 BY JUDGE RILEY:

21 **Q.** With regard to the financial information
22 that was submitted, if you know, Mr. Morris, is

1 this for the applicant itself or will this be for a
2 parent or subsidiary company?

3 **A.** This is for the applicant itself, our
4 company.

5 JUDGE RILEY: Thank you.

6 MR. CROCKER: Your Honor, this is Patrick
7 Crocker.

8 JUDGE RILEY: Yes?

9 MR. CROCKER: We have exhibits that have been
10 submitted to the docket. We'd like to make those
11 and move to do so to make those exhibits part of
12 the record --

13 JUDGE RILEY: All right.

14 MR. CROCKER: -- unless Staff objects.

15 JUDGE RILEY: Well, let's identify them
16 specifically. The first one I was going to deal
17 with were the management profiles and mark those as
18 Applicant's Exhibit 1 --

19 MR. CROCKER: Okay.

20 JUDGE RILEY: -- if that's acceptable. And you
21 have moved for the admission of that exhibit into
22 evidence.

1 Mr. Koch, is there any objection from
2 Staff?

3 MR. KOCH: No, your Honor.

4 (Whereupon, Applicant's
5 Exhibit No. 1 was
6 marked for identification
7 as of this date.)

8 JUDGE RILEY: All right. Then Applicant's
9 Exhibit 1 is admitted.

10 (Whereupon, Applicant's
11 Exhibit No. 1 was
12 admitted into evidence as
13 of this date.)

14 JUDGE RILEY: Applicant's Exhibit 2, I was going
15 to mark the financial information that was
16 submitted and about which I've just asked the
17 witness.

18 Again, counsel has moved for the admission
19 of the financials into evidence, and again,
20 Mr. Koch, is there any objection?

21 MR. KOCH: No, your Honor.

22 JUDGE RILEY: Okay. Then marked as Applicant's

1 Exhibit 2 is admitted into evidence without
2 objection.

3 (Whereupon, Applicant's
4 Exhibit No. 2 was
5 marked for identification
6 as of this date.)

7 (Whereupon, Applicant's
8 Exhibit No. 2 was
9 admitted into evidence as
10 of this date.)

11 JUDGE RILEY: Mr. Crocker, was there anything
12 else that you wanted to offer as evidence?

13 MR. CROCKER: No, your Honor. I think that
14 would be about it.

15 JUDGE RILEY: All right. Then my last question
16 will be for Mr. Koch: Does Staff have a
17 recommendation with regard to this application?

18 MR. KOCH: Yes, your Honor. Staff sees no
19 reason why this application could not be granted.

20 JUDGE RILEY: Thank you very much. Did Staff
21 have any follow-up?

22 MR. KOCH: No, your Honor.

1 JUDGE RILEY: MR. Crocker, did you have redirect
2 for the witness?

3 MR. CROCKER: Not at this time, your Honor.

4 JUDGE RILEY: Thank you. Then I will direct the
5 court reporter to mark this matter heard and taken
6 and I will have an order prepared for the
7 Commission at the earliest possible time.

8 MR. CROCKER: Thank you, your Honor.

9 HEARD & TAKEN ...

10

11

12

13

14

15

16

17

18

19

20

21

22